

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

KEITH GREEN,

Petitioner,

vs.

CAPTAIN HASH and THE
ATTORNEY GENERAL OF
MONTANA,

Respondents.

CV 24-75-M-DWM

ORDER

Petitioner Keith Green, a federal pretrial detainee represented by counsel in his criminal matter, petitioned for a writ of habeas corpus on the Court's 28 U.S.C. § 2254 form. (Doc. 1.) He has also moved to proceed in forma pauperis. (Doc. 2.) The gist of Green's petition is that he has valid grounds for the suppression of evidence against him, and his criminal attorney has provided constitutionally inadequate assistance in his investigation or presentation of these grounds. (Doc. 1 at 4 – 7 and 10.)

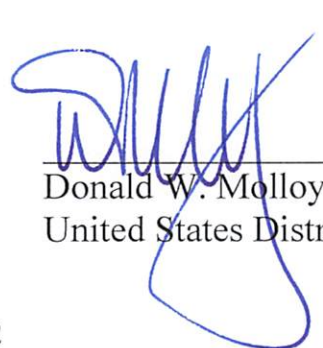
Section 2254 provides a mechanism for relief for a person in custody pursuant to a judgment of a *state* court. 28 U.S.C. § 2254(b)(1). As a federal detainee, Green's petition must proceed under 28 U.S.C. § 2241, which allows

Green to petition for a writ of habeas corpus is “he is in custody in violation of the Constitution or laws or treaties of the United States[.]” 28 U.S.C. § 2241(c)(3). Green’s petition does not allege such a circumstance. He asserts ineffective assistance of his current criminal counsel and disagreement with the Court’s ruling on his motion to suppress in his ongoing criminal matter, *U.S. v. Green*, CR 24-8-M-DWM (Doc. 60). Denial of a pretrial motion does not convert his legal custody into illegal custody. If he believes it does, he should move for a detention hearing in his criminal case. In addition, any dissatisfaction with his legal counsel must be raised in that matter. A petition for habeas corpus is not a method for an interlocutory appeal in his criminal case.

Accordingly, IT IS ORDERED:

1. Green’s petition for habeas corpus is DISMISSED. The motion to proceed in forma pauperis is DENIED. The Clerk of Court is directed to close this case.
2. The Clerk of Court is directed to serve a copy of this Order on Green’s counsel in CR 24-8-M-DWM.

DATED this 30th day of May, 2024.



Donald W. Molloy, District Judge
United States District Court